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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,702	07/02/2003	William Kress Bodin	AUS920030557US1	5882
34533	7590	12/29/2006	EXAMINER	
INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469			PANTOLIANO JR, RICHARD	
			ART UNIT	PAPER NUMBER
			2194	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/29/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/612,702	BODIN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Richard Pantoliano Jr	2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 July 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

*WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER*

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20031020.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. This is the initial office action for Application# 10/612,702 filed on 02 July 2003.

**Claims 1-21** are currently pending and have been considered below.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 5-7, 12-14, and 19-21** recites the limitation "second domain metric vector/ vector action list / user metric space... ". There is insufficient antecedent basis for this limitation in these claims because no first domain metric vector, domain metric action list, or domain user metric space was defined in the antecedent claims.

### ***Claim Rejections - 35 USC § 101***

4. **Claims 1-14** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Software constitutes "functional descriptive material". Functional descriptive material consists of data structures and computer programs which impart functionality when employed as a computer component. Functional descriptive material is nonstatutory when claimed as descriptive material *per se*. *Warmerdam*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the

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medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

The invention as stated in **Claims 1-14** constitutes software *per se* as no physical structure is present for implementing either the method or system.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims rejected under 35 U.S.C. 102(e) as being anticipated by Trossen et al (PG Pub: 2003/0204599).

7. As per **Claim 1**, Trossen et al discloses the invention substantially as claimed including a method for administering devices, the method comprising:

- a) receiving a domain state object (para. [0024]-[0027]);
- b) identifying an action in dependence upon the domain state object (para. [0024]-[0027]); and
- c) executing the action (para. [0024]-[0027]).

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8. As per **Claim 2**, Trossen et al discloses receiving a domain state object comprises: receiving a signal to download the domain state object from a mobile sensor; and downloading the domain state object from the mobile sensor (para. [0026]-[0027]).

9. As per **Claim 3**, Trossen et al discloses receiving the domain state object comprises: receiving an address of the domain state object from a mobile sensor; and downloading the domain state object from the address (para. [0026]-[0027]).

10. As per **Claim 4**, Trossen et al discloses identifying an action in dependence upon the domain state object comprises:

- a) retrieving a current device state object from the domain state object (para. [0027]); and
- b) selecting an action ID in dependence upon the current device state object (para. [0030]-[0033]).

11. As per **Claim 5**, Trossen et al discloses creating a second domain metric vector for the second domain in dependence upon the domain state object (para. [0027], [0030], [0032]-[0033]).

12. As per **Claim 6**, Trossen et al discloses creating a second domain metric action list in dependence upon the domain state object (para. [0027], [0030], [0032]-[0033]).

13. As per **Claim 7**, Trossen et al discloses selecting a second domain user metric space in dependence upon the domain state object (para. [0027], [0030], [0032]-[0033]).
14. As per **Claims 8-14**, being the system implementing the method of **Claims 1-7**, these claims are rejected for the same reasons as **Claims 1-7** above.
15. As per **Claims 15-21**, being the computer program product containing instructions implementing the method of **Claims 1-7**, these claims are rejected for the same reasons as **Claims 1-7** above.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Heller et al. (US Pat: 5,571,195), Leong et al. (US Pat: 5,996,010), Chan et al. (US Pat: 6,108,654), Kim et al (US Pat: 6,519,235), Sieppi (US Pat: 6,577,637), Reynolds (US Pat: 6,848,000), Beasley et al. (US Pat: 7,016, 325), Lee et al. (US Pat: 7,031,279), Karaul et al. (US Pat: 7,085,260), Garcia-Luna-Aceves et al. (US PGPub: 2002/0013856), and Maes et al. (US PGPub: 2002/0135618).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Pantoliano Jr whose telephone number is (571) 270-1049. The examiner can normally be reached on Monday-Thursday, 8am - 4 pm EST.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571)272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*RP*  
RP  
12/21/06

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